

FEB - 3 2017

Megan Sowards Newton Jones Day 51 Louisiana Avenue, N.W. Washington, D.C. 20001-2113

RE: MUR 7037

Dear Ms. Newton:

On April 14, 2016, the Federal Election Commission ("Commission") notified your clients Donald J. Trump for President, Inc., and Timothy Jost in his official capacity as treasurer, and Donald J. Trump, and of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. On January 30, 2017, based upon the information contained in the complaint, and information provided by you as respondent, the Commission decided to exercise its prosecutorial discretion to dismiss the complaint and close its file in this matter. Accordingly, the Commission closed its file in this matter on January 30, 2017.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). A copy of the dispositive General Counsel's report is enclosed for your information.

If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson

Acting General Counsel

BY: Jeff-S. Jordan

Assistant General Counsel Complaints Examination and Legal Administration

Enclosure
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

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2016 DEC 21 PM 4: 02 ENFORCEMENT PRIORITY SYSTEM DISMISSAL REPORT

MUR: 7037

Complaint Receipt Date: April 8, 2016

Response Date(s): June 1, 2016

Respondents: Donald J. Trungpfor President,

and Timothy Jost, as treasurer

(collectively the "Committee")

Donald J. Trump

EPS Rating:

Alleged Statutory/ Regulatory Violations: 52 U.S.C. §§ 30120(a)(1), (d)(1)(B)(ii) 11 C.F.R. §§ 110.11(b)(1), (c)(3)(iii)

The Complaint alleges that the Committee violated the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations by failing to include proper disclaimers on television advertisements that included a statement of the candidate's approval. The Complaint alleges that the Committee released a thirty-second political ad critical of fellow Republican candidate Governor John Kasich prior to the Ohio Republican Presidential Primary, which did not contain a written disclaimer for the required length of time at the end of the advertisement. The Complaint claims that the beginning of the ad contained a visual and verbal statement of candidate approval, as well as an appropriate written disclaimer, however, the conclusion of the ad did not contain a similar written disclaimer for the length of time (at least four seconds) required by the Act and Commission regulations. The Committee acknowledges that, due to vendor error, the written disclaimer appeared at the beginning, not the end of the ad. The Response claims that the campaign substituted a corrected version of the ad the day after it shipped the original ad to television stations.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity EPS Dismissal Report MUR 7037 (Donald J. Trump for President) Page 2 of 2

and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the technical nature of the violation, and the swift remedial action by the Committee, we recommend that the Commission dismiss the allegations consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.

Lisa J. Stevenson Acting General Counsel

Kathleen M. Guith Acting Associate General Counsel

12.21.16 Date

BY:

Stephen Gura

Deputy Associate General Counsel

Jeff S. Jordan

Assistant General Counsel

Donald E. Campbell

Attorney